

04-6432 GONZALEZ, AURELIO O. V. CROSBY, SEC., FL DOC

DECISION BELOW: 366 F.3d 1253 (11th Cir. 2004)

QUESTION PRESENTED FOR REVIEW

1. Whether the court of appeals erred in holding that every Rule 60(b) motion (other than for fraud under (b)(3) constitutes a prohibited "second or successive" petition as a matter of law, in square conflict with decisions of this Court and of other circuits.
- ~~2. Whether a court of appeals abuses its discretion in refusing to permit consideration of a vital intervening legal development when the failure to do so precludes a habeas petitioner from ever receiving any adjudication on his claims on the merits.~~

Cert. Granted 1/14/05

Limited to Question 1 presented by the petition